IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1061 OF 2006
IN
SUIT NO. 744 OF 2003

Mahabal Shetty ..Plaintiff

Vs.

Shakila Ansari and Anr ..Defendants

Mr.Manoj Prajapati i/b Ashoka Law firm for the plaintiff

Mr.S.K.Dubey for defendant no.1

Mr.Swapnil Bangur i/b Kalpesh Nansi for defendant nos.2 and 3

**CORAM : S.U.KAMDAR, J**
**DATED : 7TH APRIL, 2006**

P.C.:

1. By consent of the parties, motion made returnable forthwith.

2. Heard the parties. Perused the affidavit.

3. Suit is filed on 13.2.03. An application was made for interim order since 2003. The learned Judge has ordered survey of the property. Survey

of the property is completed in 2004.

4. In respect of similar reliefs which are set out in prayer clause (b), (c), (e) and (f), earlier notice of motion was taken out by the plaintiffs being notice of motion no.789 of 2003. By an order dt.17.6.03 the said motion is dismissed for default. In place of applying for restoration of the said motion afresh, motion is taken out after 3 years seeking similar reliefs by adding additional prayer that the structure on the said property should be demolished.

5. On perusal of the affidavit it indicates that there is no new cause of action arose for taking out fresh notice of motion. In my opinion, the present motion is thoroughly misconceived and not maintainable. The remedy if any of the plaintiffs was to apply for restoration of earlier motion no.789 of 2003.

6. Apart from the aforesaid, no case is made out on merits for grant of interim reliefs in the present notice of motion. Even after survey is

carried out in 2004, there is no application made for any interim injunction. After two years, first time an application is made. There is a gross delay. On both the aforesaid grounds, motion stands dismissed. No order as to costs.